

**CALIFORNIA COASTAL COMMISSION**

South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
(562) 590-5071

**Tu 15c**

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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NUMBER:** 5-01-038

**APPLICANT:** California Department of Transportation

**AGENT:** Stephanie Reeder

**PROJECT LOCATION:** Route 90 from Coastal Zone boundary to a point "halfway between Culver Boulevard and Mindanao Way": to a point 1,934.7 feet west of the westerly edge of the proposed bridge over Culver Boulevard, City of Los Angeles, Los Angeles County.

**PROJECT DESCRIPTION:** Demolish sports club, retail pottery store and RV/boat storage facility, extend Route 90 Freeway within a segment that extends from Centinela Boulevard past Culver Boulevard, (7,910 feet or a mile and a half), install two 38.4 foot wide 1934.7 foot long ramps in median to connect bridge to existing roadway, construct a 58.6- foot wide, 436-foot long bridge over Culver Boulevard, fill 0.23 acres of freshwater wetlands (streambed) and temporarily impact 0.09 acres wetland and riparian areas, create 0.73 acres of new wetland areas on site, remove invasive plants; install storm drain pipes under road; re-connect wetlands and drains to Marina Drain.

**APPROVALS RECEIVED:**

1. Categorical Exclusion CEQA, Caltrans
2. Department of Fish and Game 1601 permit (Streambed alteration agreement Notification Number 5-265-00, 6/27/01)
3. City of Los Angeles Department of Public Works
4. California Regional Water Quality Control Board, Los Angeles Region, Conditional Certification for proposed State Route 90/Culver Boulevard Fly-over project (Corps Project 2000-06124-PJF), unnamed tributary to Ballona Creek, Marina del Rey, Los Angeles County (File No. 00-133) (401 Conditional Certification)

**SUMMARY OF STAFF RECOMMENDATION:**

Staff is recommending **denial** of the project because the applicant has not demonstrated that the wetland fill is consistent with Section 30233's standards for fill of wetlands because the applicant has not demonstrated that there is no alternative, and because the

proposed mitigation measures do not adequately protect and restore the biological productivity of the sensitive resources that have been identified on site.

#### **SUBSTANTIVE FILE DOCUMENTS:**

1. Environmental Impact Report, First Phase Project for Playa Vista, EIR No. 90-0200-SUB(c)(CUZ)(CUB) State Clearinghouse No. 90010510; Appendix D Mitigation and Monitoring Program; Mitigation Measures Tracts 49104 and 52092.
2. Playa Vista Entertainment Media and Technology District, Mitigated Negative Declaration, Playa Vista Plant Site (Addendum to Environmental Impact Report First Phase Project for Playa Vista), August 1995.
3. Los Angeles County, City of Los Angeles Certified Playa Vista LUP, 1987.
4. California Coastal Commission, Playa Vista LUP, 1987.
5. Bolsa Chica Land Trust v. Superior Ct. (1999) 71 Cal. App. 4<sup>th</sup> 493.
6. Psomas Associates, State Route 90/Culver Flyover: Jurisdictional Wetlands, Streambeds and Waters of the United States, December 1995.
7. AGRA Earth and Environmental Inc., "Final Geotechnical Design Report, Route 90 Extension From 0.38 Km East Centinela Ave To 0.23 Km East of Mindanao Way, Los Angeles California EA 1693U1, 07-LA-KP 1.2/1.9, June 30, 2000."
8. City of Los Angeles, Office of the Chief Legislative Analyst, City Investigation of Potential Issues of Concern for Community Facilities District No 4, Playa Vista Development Project, March 2001.
9. Victor T. Jones, Rufus J. LeBlanc, Jr., and Patrick N. Agostino, Exploration Technologies, Inc, Subsurface Geotechnical Assessment of Methane Gas Occurrences. Playa Vista First Phase Project. April 17, 2000. [Also referred to as the Jones Report or "the ETI report."]
10. Camp Dresser and McKee 2000, "Soil gas sampling and analysis for portions of Playa Vista Areas A and C near Culver Boulevard Widening Project" 4 page geologic letter report to Maria P Hoyer, dated 27 November, 2000 and signed by A. J. Skidmore and M. Zych (RG).
11. Mark Johnsson, Senior Geologist, California Coastal Commission, Memorandum: "Culver Boulevard Widening Project and Potential Soil Methane Hazards"
12. Gustavo Ortega, C.E.G., C. HG., Memorandum, January 24, 2001 to Ron Kosinski, Additional Information LA-01-KP 48.9 ad KP 49.0 "addressing ...some comments with regard to underground methane gas anomalies found in the Playa Vista project."
13. Coastal Development Permits and Appeals: A-5-VEN-98-222(EMC Snyder); A-5-90-653 (Channel Gateway);

#### **STAFF NOTES:**

**A. COASTAL ZONE BOUNDARY.** The project is located on state-owned land located in the City of Los Angeles. The project is located on both sides of the Coastal Zone boundary. The Coastal Zone boundary follows a projection of the northeastern side of the Alla Road right-of-way, connecting to the Pacific Electric Railroad right-of-way, then running east along the northerly edge of the right-of-way and from there to the southerly edge of the Ballona Creek Channel. The northerly half of the Culver Boulevard/Route 90 intersection is outside the Coastal Zone, but the east bound roadway and the southerly half of the intersection and most of the median area are located inside the Coastal Zone. About half of the proposed bridge would be located outside the Coastal Zone. Most of the median strip west of Culver is located in the Commission's jurisdiction, as are the westerly ramps and the proposed wetland fill and restoration. Exhibits 2 and 3 show depictions of the location of the Coastal Zone in this area. The proposed development that is located within the Coastal Zone requires a coastal development permit.

**B. LOCALLY ISSUED PERMITS UNDER 30600(b).** The City of Los Angeles has assumed the responsibility of issuing coastal development permits within its boundaries as permitted in Section 30600(b) of the Coastal Act, which allows local governments to review and issue coastal development permits prior to certification of a Local Coastal Program (LCP). Section 30600(b), however, provides that local governments do not have jurisdiction to issue coastal development permits under this program to public agencies over which they do not normally have permitting authority, such as schools and state agencies. Therefore, unlike many other projects that the Commission has reviewed in the City, this project has not received a coastal development permit from the City of Los Angeles.

Section 30600 states in part:

**Section 30600**

(a) Except as provided in subdivision (e), and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066, wishing to perform or undertake any development in the coastal zone, other than a facility subject to Section 25500, shall obtain a coastal development permit.

(b) (1) Prior to certification of its local coastal program, a local government may, with respect to any development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620, and 30620.5, establish procedures for the filing, processing, review, modification, approval, or denial of a coastal development permit. Those procedures may be incorporated and made a part of the procedures relating to any other appropriate land use development permit issued by the local government.

(2) **A coastal development permit from a local government shall not be required** by this subdivision for any development on tidelands, submerged lands, or

on public trust lands, whether filled or unfilled, **or for any development by a public agency for which a local government permit is not otherwise required.**

(Emphasis added)

The City of Los Angeles does not have permit jurisdiction over development carried out by the State Department of Transportation elsewhere in the City of Los Angeles. Therefore, the Department of Transportation has applied directly to the Commission for this coastal development permits for the development that is proposed inside the Coastal Zone.

## **I. STAFF RECOMMENDATION:**

Staff recommends that the Commission **DENY** the permit application

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 5-01-038 for the development proposed by the applicant.*

## **STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

## **II. RESOLUTION TO DENY THE PERMIT:**

The Commission hereby **DENIES** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act, and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## **II. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

### **A. PROJECT DESCRIPTION AND LOCATION**

The applicant proposes to construct a bridge on Route 90 (the Marina Expressway) over Culver Boulevard, and to extend freeway lanes to approximately halfway between Culver Boulevard and Mindanao Way. Route 90 is a State Highway that extends from Lincoln Boulevard across the 405 and then another ±20 miles east to the City of La Habra. In this

part of its length, Route 90 connects the 405 freeway to Lincoln Boulevard, connecting to the 405 freeway with high-speed ramps. From the 405 to Culver Boulevard, Route 90 is a freeway. From its intersection with Culver Boulevard to Lincoln, Route 90 is not a freeway. While it is commonly identified as the Marina Freeway, Route 90 is not a freeway within the Coastal Zone because there are signalized intersections at Culver Boulevard, Mindanao Way and at Lincoln Boulevard. Within the Coastal Zone portion of the project site, Route 90 is developed with two westbound lanes and two eastbound lanes separated by an (approximately) 330-foot wide, 2,950-foot long median. 9.74 acres of the 38.52 acre median between Culver Boulevard and Mindanao Way was previously occupied by several businesses, all but one of which have been asked to vacate. 10.05 acres are already developed with streets. The remaining 18.83 acres of the median is not developed and is vegetated by a mixture of native plants (saltbush scrub community), invasive species such as pampas grass, and several drainage ditches that support freshwater marsh plants. (Exhibit 5) A survey conducted by Psomas Associates in 1995 identified a total of 1.81 acres of state wetlands and 0.99 acres of Corps jurisdictional wetlands within the median between Culver Boulevard and Mindanao Way. In mid September 2001, the Commission staff biologist field checked the delineation of the wetlands and confirmed that it was accurate.

The present project is the first phase of a project that would ultimately link Route 90 Expressway directly with Admiralty Way in the Marina del Rey and complete the Expressway's development as a limited access, high speed route. This phase of the project (the distance between Centinela Boulevard and Mindanao Way) is 7,910.476 feet or about a mile and a half. The length of the median from Culver Boulevard to Mindanao Way is approx. 2,950 feet (a little over half a mile), all but a corner of which is located within the Coastal Zone (Exhibits 2 and 3). As part of this phase of the project, the applicant proposes to remove certain uses that have been allowed to operate within the right-of-way as interim uses including a boat storage use, a pottery store and an athletic facility. Due to State and local budgetary constraints, Caltrans normally phases projects over a number of budgetary years. The next "phase" of the project may occur within two or three years, but each phase of a project like this is designed to function indefinitely, without the completion of the next phase. There is currently no funding available or budgeted for the next phase.

The wetlands are located within and adjacent to a drainage ditch that connects with several municipal storm drains that drain the developed area to the north of the project and discharge into the Marina Drain at the southern edge of the right-of-way. The ditch runs the length of the median strip between Culver Boulevard and Mindanao Way, generally parallel to the roadway, but widening near its intake from a major drain to the north (the Marina Drain) and also at its discharge to the south (again at the Marina Drain.) (Exhibits 5 and 6.) The applicant proposes, as requested in its 1601 permit, to mitigate its filling of 0.23 acres of wetlands and temporary impacts on 0.09 acres of wetlands that will occur as a result of the development. The applicant has identified an area on site where 3:1 restoration can be provided. As required by the Department of Fish and Game, the applicant proposes to remove ice plant and pampas grass on the site, most of which is located within the

wetlands, and replace 0.73 acres of freshwater marsh along a secondary drainage ditch located on the southern edge of the median (Exhibits 5 and 6). (The ice plant and pampas grass dominate the wetland portion of the median strip.) The proposed marshes would also be linear, freshwater marshes and would continue to be fed by urban storm drains. According to the applicant, the restored wetland and habitat would remain in place and would not be removed as a result of the construction of subsequent phases of the planned Expressway. The project will require 17,800 cubic yards cut and 119,000 cubic yards fill and will take about a year and a half to complete. 100,900 cubic yards will be imported.

## **B. PROJECT BACKGROUND**

The applicant, the Department of Transportation, (Caltrans) contends that the purpose of the project is for public service, an allowable use under Section 30233. Caltrans representatives contend that the road is required to accommodate existing and future volumes of traffic on the West Side of Los Angeles, especially on Lincoln Boulevard. The West Side varies in definition, but can be loosely defined as the part of the City of Los Angeles that lies west of La Cienega, south of the Santa Monica Mountains, north of the Airport and extends to the Pacific Ocean. In a letter provided to the Coastal Commission staff, Aziz Elatter, Senior Environmental Planner for Caltrans outlines the reason for this proposal:

### **Purpose and need of the project.**

The project is proposed to relieve traffic congestion and improve safety by extending the Route 90-freeway section across Culver Blvd. It is needed to address existing and forecasted congestion levels due to the increased development in the area. The project will also alleviate congestion-related accidents that are expected to increase as congestion increases, should this project not be developed.

### **Traffic.**

Traffic volumes are projected to increase significantly along Route 90 due to on-going and planned development as well as regional growth to the extent that design year traffic demands are projected to substantially exceed capacity at a number of intersections without improvements. Currently there are over 200 proposed developments in the general area of the Route 90 Corridor, which include Playa Vista (Phase I and II), the Marina del Rey Local Coastal Plan update and the LAX Master Plan. (Exhibit 19)

When questioned about the need for the project based on existing traffic, instead of needs projected for proposed, and not yet approved projects, Caltrans representatives responded with information that they consider illustrates present congestion levels. This includes volume/capacity statistics concerning the present level of service (LOS) at the Route 90 and

Culver intersection. In a letter to staff, Caltrans representatives state that in the morning peak hour, the present level of service is LOS D (Eastbound) and C (Westbound). In the evening peak hour, the level of service is LOS E (Eastbound) and LOS F (Westbound). Caltrans representatives explain that these levels of service indicate the presently the intersection is over or near capacity (Exhibit 19.) They indicate that operating at this level of congestion leads to accidents (Exhibits 15, 19).

The applicant's representatives contend that the bridge is necessary to maintain the existing capacity because traffic levels will increase without any specific future project and there are additional projects, many of them outside the Coastal Zone, that are expected to further increase demand. They also argue that the bridge is necessary to accommodate traffic from projects that have been approved and are vested that will add to the traffic levels at this and other intersections. Once these approved projects are occupied, they argue, the congestion at this bridge will rise from over and near capacity to extremely over and at capacity (Exhibits 19-31). Caltrans staff's response to questions about the need for the project seemed consistently to address traffic impacts from existing and future projects as well as impacts from approved and vested projects and proposed, but not finally approved, projects. However, in looking at the statistics that Caltrans staff provided about present traffic levels, Culver and the Route 90 intersection is already near capacity in the eastbound lanes during the morning rush hour and over capacity in the westbound lanes during the evening rush hour. The Commission notes, however, that the present levels of service at this intersection, as reported by Caltrans, have acutely improved over the 1990 levels of service as reported by the Playa Vista consultant, Kaku Associates, even without changes to this intersection. This leads the Commission to conclude that other, less environmentally damaging improvements elsewhere in the system should be investigated before this particular improvement is approved.

The applicant has also provided a STIP (State Transportation Improvement Plan) spreadsheet indicating that Caltrans will pay for the project's construction. According to Caltrans, the City of Los Angeles is paying for the design work on this segment. These figures, the Caltrans representatives explain, mean that the road capacity increase is not required by any particular future project. (Exhibits 16 and 17).

Ronald Kosinski, Deputy District Director for Environmental Planning for Caltrans region 7, indicates that no one project is behind the demand for this project:

Caltrans has no specific master plan for this or any freeway/expressway. Caltrans' process indicates that as needs are identified, they are forwarded to the California Transportation Commission (CTC) for prioritization and funding. Because of the need generated by work and recreational congestion, this project has been funded as a highly needed project by the CTC. In addition, Caltrans is not in the real estate business, and is legally mandated by law to dispose of unnecessary real estate. This area was designated as needed for this project since it was built in 1972.

(Ronald Kosinski, Deputy District Director Division of Environmental Planning, Letter, Sept 19, 2001. Exhibit 15)

Mr. Kosinski continues that given the present congestion of this intersection and the 2% per year annual ambient growth identified by SCAG, this project is needed because of ambient growth. He acknowledges that a number of projects, including Playa Vista and the Airport expansion, will exacerbate the need for the project. However, he maintains, the project is needed because traffic has been increasing due to projects that have been already approved and constructed both inside and outside of the Coastal Zone. (Exhibit 15)

However, despite the applicant's contention, the adopted mitigation measures from the certified EIR for Playa Vista Phase I, the portion of the Playa Vista project located outside the Coastal Zone, include the attached mitigation measure:

**Culver and Marina Freeway:** Guarantee construction of a 56-foot wide three lane westbound portion (or, as an interim measure, two lanes in each direction) of a grade-separated interchange at Culver Boulevard and the 90 freeway with a new freeway-lane striping easterly at a point beyond the Ballona Creek Channel Bridge, all to the satisfaction of Caltrans. Complete the eastbound portion of this interchange if funding is provided by other sources for this location. This would replace the Culver and Marina Freeway measure listed on Page V.L.1-94 of the Draft EIR (Exhibit 25.)

The project before the Commission is substantially identical to the project required in the EIR. This project consists of the bridge portion of a grade-separated interchange at Culver and the Marina Expressway, and new freeway lane striping at a point easterly of the Ballona Creek Channel bridge. The applicant states that the City of Los Angeles is paying for the engineering and design work, and that Caltrans will pay for the bridge construction out of its budget. The EIR mitigation measures require Playa Vista to pay for the bridge design, but not its construction. Caltrans representatives state that Caltrans would not pay for the construction if the only source of demand for the project were one development. Phase One Playa Vista will impact the intersection and its traffic impacts need to be mitigated, but even without Playa Vista, the applicant claims, the intersection would need to be improved.

Caltrans representatives continue that Playa Capital<sup>1</sup> has obtained a Caltrans encroachment permit to "do work at Culver Boulevard ramps;" (to construct ramps to connect Culver Boulevard with the Route 90) however, this work is not part of this application. There are pending applications from Playa Vista to do this (see 5-00-400(withdrawn) 5-00-382 and A-PLV-5-00-417). The applicant states, but has not documented, that the need for the project may be exacerbated by the traffic impacts of Phase One Playa Vista, but that the project is otherwise needed to reduce traffic that is now using other routes from the 405 to Lincoln Boulevard. Levels of traffic, Caltrans points out, have been rising by about 2 percent per

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<sup>1</sup> Playa Capital LLC is the partnership that is proposing the Playa Vista project. The terms are commonly used interchangeably.



year on the West Side of Los Angeles for no reason that may be attached to any particular project but which represents general increases in destinations in the area and general population increases in greater Los Angeles (Exhibit 15.) Playa Vista needs the road, they state, but Playa Vista alone does not require the development of the road.

**Information about traffic demands in related traffic reports.** The draft Phase One Playa Vista EIR (1991) and the 1995 Entertainment District Amendment to the Phase One Playa Vista EIR that was completed in 1995 each include an analysis of area traffic done by Kaku Associates (a traffic engineering firm). Kaku estimates that traffic in the area of the project has been increasing at about 4 percent a year. Kaku attributes 1.5 percent of the increase to “ambient growth” and the remainder to identified major projects. In the 1995 amendment to the Phase One Playa Vista EIR (entertainment and media district) Kaku acknowledges that some major projects discussed in the 1992 initial version of the EIR were never constructed; and, in the 1995 amendment, some new projects are under discussion. Nevertheless, many projects are and have been anticipated on the West Side of Los Angeles. Kaku figures indicate that the intersection of Culver and the Marina Freeway was operating at LOS F in 1990 (at peak hours in one direction), and that traffic levels were expected to increase without the Playa Vista project. Level F is the most severe level of heavy traffic, where traffic is approaching gridlock (Exhibits 22-30.)

<b>1997 Intersection Operating Conditions (source: First Phase Playa Vista Draft EIR)</b>							
		Existing 1990		1997 <u>without</u> First Phase Playa Vista		1997 <u>with</u> First Phase Playa Vista	
Intersection	Period	V/C	LOS	V/C	LOS	V/C	LOS
	AM	1.323	<b>F</b>	1.679	<b>F</b>	1.719	<b>F</b>
	PM	0.943	<b>E</b>	1.265	<b>F</b>	1.281	<b>F</b>
Culver/Marina Freeway West bound ramps	AM	0.834	<b>D</b>	1.115	<b>F</b>	1.128	<b>F</b>
	PM	1.036	<b>F</b>	1.474	<b>F</b>	1.527	<b>F</b>

The level of service in 1990 was LOS E and D except for the evening westbound and the morning eastbound, when it exceeded capacity --level F. The 1995 Amendment to the Phase I EIR for Playa Vista, required for the development of an Entertainment and Media Center in Area D, analyzes the then current levels of service and the level of service anticipated without the Phase I Playa Vista project (ambient levels of growth) (Exhibit 28). This document anticipates that with Phase One Playa Vista, which is anticipated to generate about twice as much traffic as the other projects in the area combined, the level of service at Culver/Route 90 is anticipated to rise above capacity to level F. Level F is defined as near- gridlock (Exhibit 22). The Commission notes, however, that Caltrans' more recent data shows improvement at these intersections.

The information provided by these studies consistent with Caltrans' contention that some improvement is necessary to maintain existing levels of service even without the Playa Vista project. The Commission notes that the study uses a 1.5% estimate of annual ambient level of growth. (Each year traffic will go up by 1.5%) instead of 2% as indicated by Caltrans (Exhibits 15, 23-31).<sup>2</sup> However, the study assumes that the total growth from 1990 to 1997 would be 4 percent per year, based on the traffic generated by other projects that were approved or under consideration in the area. However, as noted above, the level of service at these intersections has actually improved since 1990. It is clear based on the information provided by Caltrans and others that there is a need for road widening or other measures to alleviate present traffic congestion. These and other measures will also be needed in the near future when already-approved and vested projects are occupied.

### C. ENVIRONMENTALLY SENSITIVE HABITAT AREAS/ WETLANDS.

A spotty mixture of saltbush scrub and introduced plants dominates the 18.83 acres of the median strip that was not previously paved for the boat/recreational vehicle storage yard. (As noted above Caltrans estimates that the entire median strip, including the cross streets, is about 38.52 acres.) Parallel to the roadway, near the center of the median, there is a ditch that is fed from urban storm drains. The ditch supports grasses, reeds and cattails and other freshwater wetland plants.

The Commission staff biologist, John Dixon, visited the site on September 18, 2001. His evaluation follows:

Route 90, Marina Highway: This project will impact small areas of existing man-made and degraded wetland. There is a ditch that carries urban runoff parallel to the highway and then curves south where it widens into a small freshwater marsh before entering a culvert. The California wetland delineation, as marked by stakes and tape, appears to include all stands of wetland vegetation. There is a great deal of exotic vegetation, such as pampas grass, that should be removed. (Dixon, 9/18/2001)

As noted above, a wetland delineation (Psomas, 1995) has shown that there are 1.81 acres of state jurisdictional wetlands on the site, some of which is open water. Within and adjacent to the inundated area, there is a large and vigorous stand of pampas grass. As the slope rises, there is "saltbush scrub" habitat, dominated by Saltbush (*Atriplex lentiforma*) and Coyote bush (*Baccharis pilularis*.) According to the Psomas survey, the area supports a number of bird species including the great blue heron, barn swallows, Allen's hummingbirds, American goldfinches, northern mocking birds, mourning doves and other common upland birds such as sparrows (Exhibit 10, 1601 permit.) The marsh is

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<sup>2</sup> The Commission also notes that the Kaku study shows the Culver Boulevard/Route 90 intersection more congested than Caltrans estimates in its recent letters (Exhibit 19 page 2).

degraded and of limited habitat value.) Nevertheless, it is a wetland as defined by the Commission's regulations and as confirmed by the Commission's biologist.

The applicant proposes to fill two sections of the marsh totaling 0.23 acres and to redirect water in those sections to underground culverts. The fill is necessary to accommodate ramps that will connect the bridge to the existing travel lanes. In addition, the applicant has identified 0.09 acres of wetland that will not be filled, but that will be so close to the grading that they will suffer "temporary impacts." The applicant states that it is not feasible to elevate these ramps without substantially increasing project costs and visual impacts. To mitigate the fill and the temporary impacts, the applicant has proposed to create 0.73 acres of freshwater marsh on site (3:1 replacement for the actual fill) and is searching for an additional 0.19 acres within the watershed (to bring the total to 0.92 acres, or 4:1 mitigation.) The applicant has also proposed to remove the pampas grass that has severely impacted the productivity of the existing wetlands, and to increase the biological function of the wetlands. The proposed mitigation area would be a linear, freshwater marsh and would continue to be fed by urban storm drains. The Department of Fish and Game has issued a streambed alteration permit for the fill conditional on the creation of mitigation area and on removal of the pampas grass (Exhibit 10). Both the created and the existing wetland areas drain to Area C Playa Vista through a conduit. The conduit under the Expressway road leaving the site is identified as the "Marina Drain" on the Caltrans plan, and would discharge to a patch of pickleweed that is located in the northwest corner of Playa Vista Area C.<sup>3</sup>

## **1. COASTAL ACT LIMITATIONS ON WETLAND FILL.**

The proposed fill has not been justified under the standards of Section 30233 of the Coastal Act. Section 30233 of the Coastal Act provides for wetland fill under a limited set of circumstances. Section 30233 states in part:

### **Section 30233**

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(I) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

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<sup>3</sup> There are several drainages, all eventually discharging into the Marina, that are identified as the "Marina Drain" on plans provided to the Commission by different agencies. This drain is not in the same location as the "Marina Drain" identified in the Playa Vista and Marina del Rey LUP.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

...

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division. ...

The project must conform to the following before the Commission may allow fill of a wetland:

- a) No feasible less environmentally damaging alternative
- b) Feasible mitigation measures have been provided

- c) [The project] Shall be limited to the following ... (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

## 2. ALTERNATIVES

Before the Commission can approve fill, it must determine that there is no feasible alternative that is less environmentally damaging. While Caltrans representatives assert that they have examined alternatives, Caltrans has not provided a list of any alternatives or the reasons for rejecting them. Logically, there are two classes of alternatives that Caltrans should analyze. As of the date of this report, Caltrans had not provided an analysis of either class of alternatives.

**Traffic re-routing or a change in modes.** The first set of alternatives would include alternate routes or modes for traffic. Are there alternate routes that the traffic that presently congests this intersection could take, such as Jefferson, Manchester, or Washington Boulevards? What improvements could take place on any of those routes to improve capacity and attract commuters away from Culver Boulevard or the Marina Freeway? Secondly, are there feasible modal shifts, such as an express bus from the South Bay to one of the currently proposed light rail lines that would encourage enough modal shifts to reduce traffic? How much traffic would need to be reduced to maintain capacity? Even if only a small percentage of commuters would change their route or ride a bus, could that reduce levels of congestion enough to maintain levels of service? While traffic analysts may have already addressed many of these questions, none of this information was provided in this permit application.

**Design alternatives.** A second set of alternatives must include investigation of construction methods that would eliminate or significantly reduce wetland fill by either re-routing the off ramps, or by placing the ramps on pilings. The ramps are designed to curve down 30 feet from the level of the bridge to the level of the current roadway. The ramps are supported on earth fill. Some wetland fill occurs where the berms supporting the ramps cross the ditches. This fill, marked "Fill of Corps Jurisdictional Wetlands", is avoidable by the installation of a small structure to bridge the ditch (Exhibits 8-12 and 33).

The applicant's representatives assert that only the crosshatched areas are to be filled. After the fill, the water from the drains would be piped under the berms (Exhibits 8-12, 33). The areas that would be filled are not large. To avoid or significantly reduce wetland fill, it would be necessary to place the ramp on pilings where it crosses the federal and state wetlands (cross-hatched on Exhibit 33). Avoidance of the wetland may also involve the construction of a retaining wall. It may be that such a design would be very expensive, or it may be that even with these modifications some fill would be necessary. The applicant has not provided any detailed analysis of this or other possible design alternatives. Therefore, it is not possible to make the finding that there are no alternatives to the project submitted by

the applicants. If there are not feasible less environmentally damaging alternatives, the project must be denied under section 30233.

### 3. MITIGATION MEASURES

The applicant has proposed mitigation measures. These mitigation measures are described in more detail in the section on biological productivity below. Basically the mitigation measures propose to create a small linear patch of wetland in an area that is overwhelmed by introduced plants, many of which are invasive. The applicant proposes to monitor the installation, but for only three years. In such an area, more than three years would be necessary to assure that the area remained or became biologically productive. There is no indication of what kind of plant will be installed in areas cleared by the project that are adjacent to the restoration area. Finally the applicant is planning to install notoriously invasive plants, including *Myoporum laetium*, in the parts of the project that are located directly outside of the Coastal Zone (Exhibit 11). Recently the staff inspected a site adjacent to Grand Canal in Venice (5-82-479) that was developed in 1982. As part of the 1982 project, the canal bank was cleared and re-seeded with natives. The project was located adjacent to an area where this plant, *Myoporum*, was used for landscaping. In subsequent years, the *Myoporum* has overwhelmed the plants that were initially installed. This and similar experiences leads the Commission to conclude when a proposed restoration area is adjacent to an area dominated by invasive plants, longer and more aggressive monitoring is necessary to assure that the area functions as proposed. As described above, these mitigation measures are flawed, but as also noted below in the section of biological productivity, it would be possible to require redesign of the project mitigation measures to enhance their effectiveness.

### 4. BIOLOGICAL PRODUCTIVITY.

Section 30231 of the Coastal Act requires the Commission to protect the biological productivity of coastal waters and streams.

#### Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The applicant has provided a list of freshwater marsh plants that it proposes to install in and adjacent to the restored wetland. The plan notes an intention to use seeds and cuttings

from the area, but does not include a detailed plan for salvaging plant materials. The plans note the use of "wildflower seeds" but do not specify the seed sources or the types of plants to be found in the mix, although the applicant has provided a list separately. While the applicant proposes to remove iceplant and pampas grass, the proposal does not include a discussion of the extent of the clearance, or a detailed protocol for removal of invasives. The plans do not map the area in which pampas grass is found nor do they specify that pampas grass will be removed from the entire site. The "restoration" is confined to a relatively small area, so it is not clear what will be used to replant areas where pampas grass was previously found. In addition, the applicant's "landscaping program" which would be located on the frontage roads and also directly outside the coastal zone, includes a number of identified invasive plants, including *Myoporum* and ice plant, which might easily invade an area that is recently disturbed. The applicant states that it will monitor for three years, but if invasives predominate nearby, a longer period of monitoring will be necessary.

The applicant's proposals to restore the wetland and to remove pampas grass would be vital first steps in mitigation, if the Commission could find the overall project consistent with the Coastal Act. However, restoration efforts have failed when invasives have taken over. Such plants are troublesome and expensive to remove from restored areas. Without (1) an identified seed source, (2) a detailed methodology for site preparation (3) maintenance and monitoring and replanting if necessary, and (4) avoiding the installation of invasive plants anywhere nearby, and (5) the removal of all pampas grass from the site, the applicant's efforts could be wasted. As proposed, without these methods and requirements, the Commission cannot find that the project will increase the biological productivity of the environmentally sensitive area and the project is not consistent with Section 30231 of the Coastal Act.

The applicant has also not demonstrated that there is a feasible, less environmentally damaging alternative. While it seems possible to design or condition feasible mitigation measures, these measures cannot substitute for the first test: that there is no alternative. Because the applicant has not demonstrated that it has (1) avoided fill of wetlands or (2) there is no other feasible alternative, the Commission cannot find that the development is an allowable use under Section 30233 of the Coastal Act, and the project must be denied.

The Commission notes that the applicant's assumption that fill for a new road is an allowable use under Coastal Act Section 30233 may be called into question. In the *Bolsa Chica* decision, the California appellate courts found that, barring certain circumstance that did not apply to the case; it was not allowable under the Coastal Act to fill wetlands except as provided for in Section 30233. In fact, the court specifically discussed the "incidental public service purposes" exception in Section 30233(a)(5) and said that "incidental public services are limited to temporary disruptions and do not usually include permanent roadway expansions" at all. Bolsa Chica Land Trust v. Superior Ct. (1999) 71 Cal. App. 4<sup>th</sup> 493,517. However, it did find that roadway expansions would be consistent with Coastal Act section 30233(a) (5) when "no other alternative exists and the expansion is necessary to maintain existing traffic capacity." Id. (See Exhibit 32.)

Since the applicant has not met the first test (that there is no alternative) it is not necessary for the Commission to analyze the implications of the Bolsa Chica decision for this present case or to determine whether or not the circumstances of this project are consistent with what the court meant when it used the term "existing traffic capacity."

#### **D. WATER QUALITY MARINE RESOURCES**

Section 30230 requires the protection of marine resources. Roads are major sources of pollutants that flow into water bodies. This road will drain to Ballona Creek, Ballona Wetlands and ultimately to Marina del Rey. In order to protect water bodies and water quality, from polluted run-off, the applicant proposes to use fossil filters in all of its project drains. Caltrans encourages trash removal programs and plans design the freeway to reduce the discharge of polluted water.

The Caltrans program for best management practices on freeways includes the following:

The latest edition of the Caltrans Storm Water Management Plan dated August 2001 has the following approved Best Management Practices (BMPs) that Caltrans has found to be effective in treating highway runoff at the present time. Caltrans is continually conducting research and evaluation of all types of BMP products to determine what other BMPs Caltrans can adopt for use. Caltrans guidance design manuals recommend Source Control BMPs over Treatment Control BMPs as generally being more effective in addressing water quality. Source Control BMPs treat water prior to entry into the system, whereas Treatment Control BMPs treat water after it has entered the system.

##### **A. Source Control BMPs:**

1. Preservation of Existing Vegetation
2. Concentrated Flow Conveyance System
  - a. Ditches, Berms, Dikes, and Swales
  - b. Overside Drains
  - c. Flared Culvert End Sections
  - d. Outlet Protection/Velocity Dissipation Devices
3. Slope/ Surface Protection Systems
  - a. Vegetated Surfaces
  - b. Hard Surfaces

##### **B. Treatment Control BMPs:**

1. Biofiltration: Strips/Swales
2. Infiltration Basins
3. Detention Devices
4. Traction Sand Traps (Only applies in Lake Tahoe Area)
5. Dry Weather Flow Diversion

For this project, the following BMPs will be used:



- ❑ On the Connector ramps we are using dikes to intercept runoff from the paved surfaces.
- ❑ Drainage swales will be placed at the bottom of the fill slopes for the Connector ramps to collect the flows from the side slopes.
- ❑ Flared end culvert sections and rock slope protection are used to prevent scour and minimize erosion at the outlet locations.
- ❑ The created wetlands is also considered a BMP as the runoff from the roadway will be filtered through the system, and come out cleaner than it went in.

Project designs generally incorporate several of the above mentioned source control BMPs that provide a water quality benefit. Some of these treatments may not be obvious (such as slope paving) however, they provide a water quality benefit by prevention of erosion and sediment flowing into the waterbodies, thus reducing the pollutant discharge.

After taking a closer look, research conducted by Caltrans thus far has indicated that Drain Inlet Inserts (e.g. Fossil Filters) is an ineffective application for this type of highway project. In addition, Fossil Filters may present a safety hazard for the motoring public due to the potential for drain inlet failure, which would lead to flooding on the adjacent roadway. Several studies have been conducted by Caltrans in regards to their performance for use on some highway facilities.

If the project were recommended for approval, the Commission would most likely require that these devices be sized for a two year 24 hour storm event, and require that the treatment could occur in 85% of the storms. Based on the applicant's plans, these conditions would require only minor changes for the project to conform to Section 30230. The second water quality impact of a project like this is siltation during construction. Caltrans proposes to do the work in stages and use standard sand bagging and other siltation control methods such as covering stockpiles and to use watering to reduce fugitive dust. Again, with the imposition of minor conditions to address construction methods and to require the provision of detailed erosion and siltation control plans, and direction of drainage away from water bodies, this project would conform to Section 30230 in terms of its potential impacts on water quality.

#### **D. PUBLIC SHORELINE ACCESS AND RECREATION**

Section 30210 requires that maximum access to the coast be provided. Section 30223 requires the reservation of upland that are necessary to support coastal recreation. The project will allow increased speed and volume on an east-west traffic route that can deliver inner city and East County beach goers to the Venice and Playa del Rey beaches and to Marina del Rey. Although the project is designed to reduce commercial and commuter traffic loads on Lincoln Boulevard and on east-west routes during peak commuter hours, it can and will serve to improve vehicular access to the coast on weekends as well.

There is a bicycle lane in the median strip of Culver Boulevard east of the Coastal Zone boundary. The bicycle and jogging path extends from a park at Overland Avenue to the Culver City/Los Angeles boundary and from there to a point where a self-storage unit

occupies the median strip, about two blocks east of Route 90. Project engineers state that the distance between the bridge supports is wide enough to accommodate additional traffic lanes and a bicycle lane on Culver Boulevard. The additional lanes, including the bicycle lane, would be located along Culver Boulevard and travel under the bridge. As proposed, the project is consistent with the development of additional recreational facilities, will improve and enhance public access to the coast and is consistent with Sections 30210 and 30223 of the Coastal Act.

## **E. DEVELOPMENT**

The Coastal Act provides standards that the Commission must use in approving development. Section 30250 requires that development be sited and designed in existing developed areas to minimize development in relatively untouched rural areas. Section 30252 encourages investigations of other modes of travel to reduce competition for coastal access roads.

### **Section 30250.**

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

### **Section 30252.**

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Based on these provisions of the Coastal Act, the Commission and City of Los Angeles have approved coastal development permits for projects with relatively high levels of density in the immediate area of the proposed project. These include projects adjacent to Lincoln Boulevard (also see above and the Substantive File documents). All these projects, along with projects outside that Coastal Zone have individually and cumulatively, contributed to the increasing levels of traffic on Lincoln Boulevard, Culver Boulevard and the Marina Freeway. (Most notably the Commission found no substantial issue on two City of Los Angeles-approved projects: one that included a 334 unit (moderate income) apartment building, and a 166 unit building; the other included 800 (moderate income) apartments and two 16 story towers providing 512 condominiums on an 18.9 acre site. Both projects were located on Lincoln Boulevard. (See Substantive File documents above for the numbers of the two appeals.) The Commission has approved LUPs with similar impacts, notably the Marina del Rey Ballona LUP in 1984. In 1987 the Commission reiterated its approval of the Marina del Rey Ballona LUP in LUPs applying to the City and County areas of the Marina del Rey and Playa Vista (Marina del Rey LUP 1987, Playa Vista LUP, 1987.) In 1995 the Commission approved an amended LCP for the Marina del Rey that would result in 2,700 daily peak hour trips and would include multi-story development on most residential parcels. In effect, the Commission's assumption has been that development and the concentrated infrastructure to serve it would be located in Los Angeles and not elsewhere, in more remote areas along the coast. All of these approvals presumed that the infrastructure serving Lincoln Boulevard including Lincoln, Culver, Jefferson, Washington and Venice Boulevards would require road improvements. (Exhibit 27.) The plan approvals were granted before the courts issued the Bolsa Chica decision and other more literal interpretations of the Coastal Act.

Part of the thinking in approving higher density development in some areas is the theory that higher density development could support transit alternatives as required in Section 30252. In addition to allowing high-density development and providing lists of road improvements, the Marina del Rey Ballona LUP (1984) and its successors required the development of mass transit alternatives. LUP policies required that some form of transit be part of the transportation improvement package. The 1987 Marina del Rey LUP and the related Playa Vista LUP require (1) development of jitney systems integrated between the City areas, County areas, Playa del Rey and Venice, (2) development of park and ride lots for commuter express buses that would travel to Downtown Los Angeles, and (3) reservation of right-of-way along Lincoln Boulevard for a transitway. However, the transportation improvements that the Commission has actually reviewed to date concentrate on road widening and on traffic management methods to increase vehicular speeds. Playa Vista and the City have also required jitneys within Playa Vista. Transit under consideration by both and the Department of Beaches and Harbors consists of jitneys and other short haul buses, but few long haul improvements that might accommodate the ten to fifteen mile work trip that the average Los Angeles resident makes. Culver Boulevard is the site of a former railroad right-of-way that extends west and south through the wetlands and then south

through the South Bay.<sup>4</sup> There is no analysis of methods of using this older right-of-way for a dedicated transitway or other alternative transportation. In analyzing the design of this project Caltrans has not addressed alternative transportation methods, as required in Section 30252 of the Coastal Act.

## **F. CERTIFIED LAND USE PLANS.**

This bridge is one of the road-widening projects incorporated into the certified Land Use Plan for Playa Vista, even though it is technically outside of the study area. In 1984 the Commission approved the Marina del Rey Ballona LUP. This bridge is adopted as part of the Circulation Element of the plan, even though Los Angeles County prepared the LUP and the roadway is owned by Caltrans and located in the City of Los Angeles (Exhibit 27, page 3.) Again in 1987, the Commission approved parallel LUPs for the Marina del Rey and, in the City of Los Angeles, the Playa Vista LUP, that showed the identical transportation system measures, including the present project.

As noted above, the Marina del Rey and Playa Vista LUP's certified by the Commission in 1987 encourage the reservation of transit corridors and the adoption of shuttle programs. However, they rely on development caps and widened roadways to provide the transportation capacity necessary for the anticipated high-density development. All include high levels of density and multiple traffic impacts and provides for widened roadways. The plans provide for the extension of Admiralty Way to Culver Boulevard, widening Lincoln Boulevard to eight lanes, widening Culver and Jefferson Boulevards, widening other roads, and extending the Marina Freeway. The certified Playa Vista Land Use Plan shows Culver Boulevard as an alternative transportation corridor, and includes policies that provide for widening Culver Boulevard and extending the Marina Freeway. With respect to this project, Policy 4.18 of the Playa Vista LUP states:

*Page 44, Policy 18. Extend the Marina Freeway, just east of Culver Boulevard, with a grade-separated interchange at their intersection*

Although these permit and LUP approvals seemed to assume that roadways to accommodate the development would be approved, until the local coastal program is fully certified, the standard of review for the roadways themselves is Chapter 3 of the Coastal Act. Moreover, most recently, the Commission, faced with more detailed information about the impacts of the development conceptually approved in the Land Use Plans, has been willing to reexamine the effects of the development, noting that a Land Use Plan is not binding on the Commission and that any development listed in an LUP is subject to review based on the Coastal Act. The Commission has also noted that the standard of review for any amendments to the land use plans would be the policies of Chapter 3. Therefore, in the

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<sup>4</sup> The South Bay comprises the Cities El Segundo, Manhattan Beach, Hermosa Beach and Redondo Beach and cities directly inland of them such as Lynwood and Lomita. They are directly inland of a bay extending from Ballona Creek to the Palos Verdes Peninsula.

absence of a fully certified LCP, the Commission's earlier decisions that the "area" could accommodate high-density development does not commit the Commission to approving development that would not otherwise be approvable consistent with the policies of Chapter 3.

## **G. VISUAL IMPACTS.**

Section 30251 requires that development be sited and designed to minimize visual impacts.

### **Section 30251.**

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

There has been some public discussion of reserving the land adjacent to this road, Playa Vista Area C, which is held in trust for the State of California, as a public park. The area is not now a public park and will not be one until the Legislature acts to designate the land as a park. Nevertheless, in considering the design of public structures adjacent to the land, the Commission must consider the compatibility of the structure with a prospective public park and with public use. In this instance, compatibility includes the impacts on views to and from the bridge and the compatibility of the bridge and its design with future recreational facilities, such as bike trails under the bridge.

Caltrans engineers argue that the roadway under the bridge will be wide enough to accommodate bike lanes that can connect with the existing Culver Boulevard bike lane which already extends from Overland Avenue almost to Area C.

The bridge will be elevated roughly 30 feet above roadway level. This will provide a view of Area C, but also will be visible from Area C. The bridge will be a standard concrete bridge. The Caltrans plans three foot high tapered concrete solid rails (type 736) that provide no views through the rails. There will be no view of either the development proposed on Area C or of the possible urban park from the bridge from compact cars, although the drivers and passengers in SUVs and other taller vehicles will be able to see over the rails. The bridge will have concrete pilings, which will be enlarged with tapered supports at the head of the columns. The bridge will be relatively low and unobtrusive and will not be visually obtrusive from either public or private areas. If the rails provided views of the area, the bridge would also be more interesting visually.

The bridge has no significant impacts on public views. It is adjacent to structures that range from 20 to 40 feet in height. It is low enough to be subordinate to its setting. The project is consistent with the view protection policies of the Coastal Act.

## **H. HAZARDS.**

The Coastal Act provides that development shall be sited and designed to avoid hazards. Section 30253 requires, in part:

### **Section 30253.**

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

After the discovery of high levels of soil gas in Area D Playa Vista, the public has consistently expressed concern about the levels of soil gas in nearby areas. Tests conducted for a nearby project (Playa Vista Phase I, see substantive file documents) showed high levels of soil gas in an area east of Jefferson Boulevard. A report conducted by the City of Los Angeles City Legislative Analyst did not identify significant soil gas accumulations north of Ballona Creek. The present project is well north of Ballona Creek, about half a mile north of the part of the Playa Vista project that has been shown to have high concentrations of soil gas. Caltrans sought an opinion from Gustavo Ortega, a Caltrans staff geologist, concerning the possible hazard of soil gas to this project. The geologist replied that methane is a potential hazard in confined spaces, but that there were no confined spaces proposed as part of the development of this bridge and ramp. Moreover, the Coastal Commission staff geologist, in an analysis of a proposal to expand Culver Boulevard, A-5-PLV-00-417, has indicated that soil gas does not pose a hazard to roads or the vehicles on them because soil gas does not accumulate where there are no enclosed structures.

The soils in this area are made up of sediments deposited by creeks and other water bodies. There is a relatively high groundwater table. The applicant's geologists have taken these conditions into account and designed to accommodate these potential hazards. The project is not located in an area subject to other hazards, such as landslides or flooding. As such, the project is consistent with Section 30253 of the Coastal Act.

## **I. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 of the Commission's regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

In this case, there is damage proposed, and (1) the mitigation is not adequate to enhance the productivity of the wetland, in conformity with the Coastal Act; (2) the damage is not justified under the strict standards of Chapter 3; and (3) the applicant has not shown that there are no alternatives that would avoid the wetland fill. There is no evidence that there are no other feasible alternatives or mitigation measures available which will lessen any significant adverse impact the activity would have on the environment. Therefore, the Commission finds that the proposed project is not consistent with CEQA and the policies of the Coastal Act and the project must be denied.